

DD/A 75-0159

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15 JAN 1975

Executive Registry

75-4163

DD/A Registry
File *personnel*

MEMORANDUM FOR: Director of Central Intelligence
FROM : Deputy Director for Administration
SUBJECT : Agency Retirees Rehired Under Contract

1. This memorandum is for your information.

2. As you are aware, a number of senior Agency officials elected to retire 31 December 1974 in order to take advantage of the 7.3 percent cost of living annuity increase. Some of these officials were serving as Chiefs of Station, while others were in key headquarters assignment. Faced with the serious loss of expertise these individuals represented, many were asked to serve as re-employed annuitants. I have held a series of meetings with Directorate representatives, the General Counsel and the Director of Personnel concerning the type of contractual arrangement under which these retired annuitants would be rehired. In those cases where the retiree is continuing in the same job he held before retirement, I have determined that the contractual relationship must be that as a contract employee with the salary level to be at the 90 percent rate of his former salary level. Against this amount will be offset his annuity, thus adhering to our internal policy of [] that the salary plus annuity cannot exceed 90 percent of the current salary of the individual's grade and step at the time of retirement. Those individuals in headquarters who may not be continuing in the same position, but who will be performing staff employee type duties, will likewise be re-employed as contract employees with the 90 percent rule applied. Others who do not meet the legal tests of employee relationship may be hired as independent contractors.

3. During the course of discussion on these contractual arrangements, the General Counsel discovered that in the past we have been in noncompliance with the Civil Service rule that as employees certain re-employed annuitants must accrue leave in accordance with the Annual and Sick Leave Act of 1951, as amended. (Our past procedure was to pay a lump sum for the annual leave balance at the time of retirement with no provision in the subsequent contract for leave.) However, as rehired employees the annual leave carry-over limit must be transferred to their leave account as contract employees.

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The problem then arises that upon the termination of the contract the annual leave balance is paid at the rate of compensation stated in the contract, i.e., 90 percent salary level of their former staff salary and grade and any excess leave, i.e., that in excess of the leave balance that can be carried over, would have to be forfeited.

4. I plan to rectify the loss of excess annual leave beyond annual carry-over limit by restoring this leave and maintaining it in a special leave account. Then at the time of termination of the contract, the employee will be paid for the amount of his annual leave balance at the time plus that held in the special leave account. It should be noted that during the period of the contract the re-employed annuitant will earn annual leave which will also be paid as lump sum. With this extra leave payment, most re-employed annuitants will actually receive a higher lump sum payment at the expiration of their contract than they would have at the time of their retirement. Despite this extra leave entitlement a few of these individuals, because of the relatively brief duration of their contract employment (i.e., 45 to 90 days), and the application of the 90 percent rule may be aggrieved since the amount of their annual leave payment upon termination of the contract will be less than that they would have received had payment been made effective the date of their retirement as staff employees. Another consideration, of course, is that regardless of the amount of terminal leave payment, the date of their receiving the payment will be delayed until the contract is terminated.

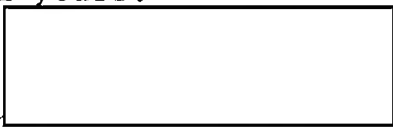
5. Nevertheless, adoption of the above procedure will place us in a position of conformance with the requirement that contract employees must accrue leave. It will also permit us to respond to any future inquiry on the basis that all contract employees are being treated in the same manner relative to annual leave. In addition, applying the 90 percent rule in these cases in the same manner as we have in past cases will avoid the allegation of superior treatment for 31 December retirees.

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6. We are presently reviewing the leave situation as it applies to those retired annuitants rehired as contract employees over the past several years.

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John F. Blake
Deputy Director
For
Administration

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John F. Blake
Deputy Director
For
Administration

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Director of Personnel

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1 - D/Pers

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6 Feb 75

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Thank you for your letter of 12 January 1975 requesting that we reconsider your application for employment with this Agency.

At my request the Director of Personnel again reviewed your application papers. Based on his information, I am satisfied that those Agency officials who could take advantage of your services have carefully reviewed your education and experience against our present and projected requirements.

I certainly understand your disappointment at our decision, but you should know that this is not a reflection on your qualifications. Simply stated, this Agency has been reducing in size for the last several years, and we anticipate no increase in our manpower ceiling levels in the near future. We receive literally thousands of applications from well qualified candidates for the few openings we have. The majority of these openings at this time concentrate on scientists, engineers, and computer systems experts. The competition for the few positions available in your area of competence, and for the Career Training Program, is extremely keen and many well qualified applicants are, unfortunately, being turned away.

I appreciate very much your offer to work with us and sincerely regret that our response could not be favorable.

Sincerely,

W. E. Colby

W. E. Colby
Director

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